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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,090	02/18/2004	Wayne H. Rothschild	47079-00244USPT	4781
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NIXON PEABODY LLP 161 N CLARK ST. 48TH FLOOR CHICAGO, IL 60601-3213			EXAMINER HALL, ARTHUR O	
			ART UNIT 3709	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/782,090

Applicant(s)

ROTHSCHILD, WAYNE H.

Examiner

Arthur O. Hall

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) 50,51 and 58-71 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 and 52-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/18/2004</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 2/18/2004 has been acknowledged by the examiner.

Election/Restrictions

This application contains claims directed to the following patentably distinct species: Species I and II.

Species	Figures	Claims
I	1, 4	1-49; 52-57
II	5A, 5B	43, 50-51; 58-71

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic claims; however, claim 43 is a linking claim.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

During a telephone conversation with Attorney Sorinel Cimpoes on 7/28/2007, a provisional election was made without traverse to prosecute the invention of Species I, claims 1-49 and 52-57. Affirmation of this election must be made by applicant in replying to this Office action. Claims 50-51 and 58-71 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-49 and 52-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hedrick et al. (US Patent 6,135,884; hereinafter Hedrick) in view of Wurz et al. (US Patent 6,334,612 B1; hereinafter Wurz). Figures are described with reference characters where necessary for clarity.

Regarding claims 1, 2-3, 5, 13, 16, 37, 41 and 43-45, Hedrick teaches a gaming terminal for conducting a wagering game or playing a game of chance (column 5, lines 41-42, Hedrick), comprises:
a housing includes a gaming input region located between a main display and a button panel and to the side of / next to a secondary display having wager-input means or at least one of a wager-input means and a player-identification input device for receiving player-identification information, said gaming input region receiving said wager

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inputs and information about the player (column 5, lines 43-45, column 7, lines 6-20, column 9, lines 1-20, Fig. 2, 220, 230, 232 and 234 and Fig. 3a or 4a, 307, 309, 219, 315 and 317, Hedrick; a coin acceptor and bill acceptor as wager-input means, a card reader as a player-identification device and a region disposed between at least one display and a panel including a button and to the side of a secondary display are disclosed, all of which are located at, on or within a housing);

a button panel mounted below and contiguous with said secondary display, said button panel including a plurality of buttons or mechanical buttons for receiving inputs or wager inputs from a player (column 6, lines 6-17, column 7, lines 6-20, Fig. 2, 230 and Fig. 3a and 4a, 219 and 315, Hedrick; plural buttons are disclosed that are mechanical buttons since the player must push the button to make a selection and it would have been obvious at the time of invention to locate the plural buttons below and contiguous with the secondary display since a button on a panel having the described configuration is disclosed);

a main display / plurality of mechanicals reels located within said housing (column 5, lines 45-55 and Fig. 2, 220, Hedrick), said main display / plurality of mechanical reels for displaying a randomly selected outcome from a plurality of outcomes of said wagering game in response to receiving a wager at said wager-input means (column 5, line 45 to column 6, line 5 and column 6, lines 18-25, Hedrick; plural symbols or outcomes are randomly selected from a spinning of reels to determine whether there is a match with a predetermined combination once the player inputs a wager);

a secondary display located within said housing between said button panel and said main display / plurality of mechanical reels or mounted to said housing below said main display, said secondary display being directly contiguous with said button panel and is directly adjacent to said button panel (column 5, line 56 to column 6, line 5, column 6, lines 43-56, column 6, line 66 to column 7, line 2, column 7, line 66 to column 8, line 11, column 8, lines 48-61, Fig. 2, 3a, 4a and 4d, 219, 220, 230 and 315, Hedrick; a secondary display is located above or below a main display between, contiguous and adjacent with a button or button panel since it would have been obvious at the time of

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invention for the purpose of variation in design to realize that the circular top box is configurable so that the top portion is detachable or extendable in order for the main display to fit therebetween the secondary display and primary and secondary progressive displays, thereby disposing the region, described above, between the main display and button panel and to the side of the secondary display), said secondary display displaying information about said wager inputs or at least one of said wager inputs received from said wager-input means and said player-identification information (column 5, line 56 to column 6, line 5, column 6, lines 18-25, column 7, lines 6-20, Hedrick; secondary game information or content information is displayed based on wager or player identification information input) and, during said wagering game, displaying game-play information related to said plurality of outcomes at said main display and said secondary display in said wagering game (column 5, line 56 to column 6, line 5, Hedrick; secondary game information or content information regarding plural combinations of symbols is displayed), said secondary display and said main display acting in unison to illustrate continuous movement of images related to said randomly selected outcome from said secondary display to said main display and from said main display to said secondary display (column 7, lines 37-57, column 8, lines 62-67, column 9, lines 21-33 and column 21, lines 41-54, Hedrick; the main display and secondary display are configured to be in communication so as to transmit content or plural images or icons between each display); and

a touch screen over said secondary display for receiving inputs from the player (column 8, lines 48-61, Hedrick).

However, Hedrick does not substantially teach the location of a button panel directly below a wager-input means on a housing and the location of a secondary display adjacent to and to the side of the wager-input means and player-identification device as claimed.

Therefore, attention is directed to Wurz, which teaches

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that a button panel is located directly below said wager-input means on a housing (column 3, lines 45-63, column 5, lines 20-31 and Figs. 1 and 2, 20, 22, 28 and 30, Wurz; a button panel is located directly below a wager-input means for human ergonomics design); and

that the wager-input means or player interface section is ergonomically located below the main display and above the button panel such that the secondary display is located directly adjacent to and to the side of the wager-input means and player-identification device (column 3, lines 45-63, column 5, lines 20-31 and Figs. 1 and 2, 20, 22, 28 and 30, Wurz; it would have been obvious at the time of invention to realize that the secondary display is located adjacent to and to the side of the wager-input means and player-identification device since the secondary display is configured, as described above, to be located between the main display and button panel and having a region to the side of the secondary display capable of being configured to mount, locate and connect peripheral input devices).

Wurz suggests that a device or product that locates or positions the essential components of a gaming machine such as the button panel, displays and input devices in a configuration that provides an ergonomically fit design that allows human players to play longer without discomfort will make the gaming environment comfortable and effective for human players (column 1, line 13 to column 2, line 30, Wurz).

Thus, it would have been obvious to one having ordinary skill in the art at the time the applicant's invention was made to modify Hedrick in view of the teachings of Wurz for the purpose of providing the gaming device of Hedrick having main display,

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secondary display and button panel features incorporated in a housing having with a region for device interconnection that are interchangeable with or upgradeable to the wager-input features of Wurz ergonomically configurable to be located to the side of the secondary display and between the main display and button panel in order to make the gaming environment comfortable and effective for human players by providing an ergonomically fit design that allows human players to play longer without discomfort.

Regarding claims 24-26, 29, 35, 52 and 54, the scope of the claims is substantially the same as claims 1, 2-3, 5, 13, 16, 37, 41 and 43-45 above with the only difference being that claims 1, 2-3, 5, 13, 16, 37, 41 and 43-45 are apparatus claims and claims 24-26, 29, 35, 52 and 54 are process claims.

Regarding claims 4, 6-12, 14-15, 27-28, 30-34, 36, 38-40, 42, 46-49, 53, and 55-57, Hedrick teaches

Regarding claim 4, a touch screen overlaying at least a portion of said main display is disclosed (column 8, lines 38-47, Hedrick).

Regarding claim 6, the touch screen receives game-play inputs or inputs, said game-play inputs or information being player selections related to said randomly selected outcome of said wagering game (column 8, lines 38-61 and column 23, lines 37-57, Hedrick; player actuates by making a spin or, alternatively, by making selections from a main display or secondary display and the outcome is randomly determined by the slot machine processor).

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Regarding claim 7, a third display for displaying information about a bonus game or a progressive game, said third display being mounted above said main display is disclosed (column 7, line 2-5 and column 7, line 58 to column 8, line 11, Hedrick; the primary and/or secondary progressives displays are third displays disposed above the main display).

Regarding claims 8, 42 and 46, the second display or third display is adapted to show a pay table indicating the payout amounts for winning outcomes of said plurality of outcomes (column 23, lines 37-57, Hedrick; it is disclosed that a secondary or other display is adapted to show a pay table).

Regarding claim 9, the third display is adapted to show advertising information (column 7, lines 6-20, Hedrick; the displayed content is advertisement of a special event).

Regarding claim 10, the third display and at least one of said main display and said secondary display act in unison to illustrate continuous movement of images from said third display to said at least one of said main display and said secondary display and from said at least one of said main display and said secondary display to said third display (column 6, line 66 to column 7, line 5, column 7, lines 37-65 and column 21, lines 41-54, Hedrick; it would have been obvious at the time of invention to provided continuous movement of images between the third display or primary and/or secondary displays and the main display and secondary display since each of the displays communicate over a wired interconnection).

Regarding claim 11, the third display includes a touch screen overlying at least a portion of said third display (column 8, lines 48-61, Hedrick; it would have been obvious to include a touchscreen over a third display since each LCD display is adapted to receive LCD touchscreens).

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Regarding claim 12, the main display and said secondary display are each selected from a group consisting of a cathode ray tube, a high resolution LCD, a plasma display, and a LED (column 8, lines 38-47, Hedrick).

Regarding claim 14, the player-identification input device is a card reader (column 7, lines 6-20 and column 9, lines 1-20, Hedrick).

Regarding claim 15, the wager-input means includes at least one of a card-reading device and a cash wager-input means, said cash wager-input means including at least one of a coin slot input device and a note input device (column 6, lines 18-25 and column 7, lines 6-20, Hedrick; a card reader, coin acceptor and bill acceptor are disclosed).

Regarding claims 27 and 53, the game-play information related to said wagering game displayed at said secondary display is a pay table (column 23, lines 37-57, Hedrick).

Regarding claim 28, adjusting payout values in the pay table according to at least one of the wagered coins, bonus spins, and bonus pay events is disclosed (column 23, lines 37-57, Hedrick; payouts are increased or decreased).

Regarding claims 30 or 55, 31, 33, 34 and 36 or 56, the scope of the claims is substantially the same as claims 7, 8, 9, 10 and 6, respectively, above with the only difference being that claims 7, 8, 9, 10 and 6 are apparatus claims and claims 30 or 55, 31, 33, 34 and 36 or 56 are process claims.

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Regarding claim 32, advancing the pays of the pay table according to at least one of the wagered coins, bonus spins, and bonus pay events is disclosed (column 23, lines 37-57, Hedrick; pays are increased).

Regarding claims 38 and 47, the inputs received at said touch screen over said secondary display are game-play inputs (column 8, lines 38-61 and column 23, lines 37-57, Hedrick).

Regarding claim 39 and 48, the inputs received at said touch screen over said secondary display are wagering inputs (column 6, lines 18-25 and column 8, lines 38-61, Hedrick).

Regarding claims 40 and 49, the inputs received at said touch screen over said secondary display are player-identification inputs (column 8, lines 38-61 and column 9, lines 1-20, Hedrick).

Regarding claim 57, the game-play selections are selected in a bonus game (column 23, lines 37-57, Hedrick).

The claimed features of claims 17-23 do not appear to be disclosed in Hedrick; therefore, attention is directed to Wurz, which teaches

Regarding claim 17, a middle portion of said button panel is disposed at a height ranging from about 30 inches to about 35 inches above the floor on which said housing sits (column 5, lines 32-45, Wurz; it would have been obvious at the time of invention to dispose the middle portion of the button panel at a height ranging from about 30 to 35 inches since this range is insubstantial with respect to the disclosed range of about 32 to 34 inches, the difference being merely 1 to 2 inches closer or further away from the floor).

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Regarding claim 18, the distance from the top of said button panel to the bottom of said secondary display is about zero inches to about eight inches (column 5, lines 20-31, Wurz; it would have been obvious at the time of invention to make the distance from the top of the button panel to the bottom of the secondary display about 0 to 8 inches since this range is within the ergonomic contemplation of elbow height from a keyboard based on the average distance from the fingers to the shoulder of average adults).

Regarding claim 19, the wagering game is selected from a group consisting of slots, poker, keno, bingo, blackjack, and roulette (column 3, lines 36-44, Wurz; poker, blackjack, bingo and roulette and all other wagering games are obvious variants thereof).

Regarding claim 20, the gaming terminal includes a CPU for determining said randomly selected outcome from said plurality of outcomes (column 4, lines 39-48, Wurz).

Regarding claim 21, the wager-input means includes at least one network-based account (column 3, lines 45-63, Wurz; players log into their account using a tracking card over a network check awards and make wagers).

Regarding claim 22, the buttons are mechanical (column 4, lines 15-21, Wurz).

Regarding claim 23, the buttons are proximity sensors (column 49-60, Wurz).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

C US-6,315,666 B1, Mastera et al.

D US-6,368,216 B1, Hedrick et al.
E US-2004/0053673 A1, Mishra
F US-2003/0195024 A1, Slattery
G US-5,951,397, Dickinson
H US-2003/0195033 A1, Gazdic et al.
I US-6,210,279 B1, Dickinson
J US-2004/0266536 A1, Mattice et al.
K US-6,089,976, Schneider et al.
L US-5,890,962, Takemoto
M US-4,527,798, Siekieski et al.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur O. Hall whose telephone number is (571) 270-1814. The examiner can normally be reached on Mon - Fri, 8:00am - 5:00 pm, Alt Fri, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571) 272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AH


7/28/2007